IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1017 of 2004

Between:

M/s.Vishal Victory Metal Engineering (p)Ltd., Visakhapatnam,

rep.by authorised Signatory Mr.PVSRG Prasad.

..... PETITIONER

AND

1 The Commercial Tax officer, Chinna Waltair,visakhapatnam.
2 The Additional Commissioner of Commercial taxes, Nampally,Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ or order or direction quashing the order of the 2nd respondent directing payment of 50% of forfeited amount and restrain the 1st Respondent from collecting disputed demand of Rs.8,07,759/-.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY

Counsel for the Respondents 1 and 2: The Government Pleader for COMMERCIAL TAXES

The Court made the following ORDER: (per BN,J)

Against the impugned order, an appeal is pending and the Additional Commissioner of Commercial Taxes has also granted stay to the petitioner subject to deposit of 50% of the disputed tax. This order is under challenge before this Court. We find that the discretion has been exercised properly by the Additional Commissioner of Commercial Taxes and it does not warrant any interference by us.

The other question raised in the writ petition cannot be gone into at this stage, as the appeal is pending and any expression of opinion by us is likely to prejudice either of the parties in the appeal. Therefore, the writ petition is not entertainable. However, in the circumstances of the case, we allow the writ petitioner four weeks time to deposit 50% of the disputed tax in terms of orders of the Additional Commissioner of Commercial Taxes.

The writ petition is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

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(P.S.NARAYANA, J)

5th JULY, 2004.

Kvni/ajr

To

1 The Commercial Tax officer, Chinna Waltair,visakhapatnam.
2 The Additional Commissioner of Commercial taxes, Nampally,Hyderabad.

3 Two CCs to the Government Pleader for Commercial Taxes, High Court Buildings, A.P., Hyderabad (OUT).

4 Two CD copies.